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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,844	03/26/2007	Peter Bauer	2004P00501WOUS	4430

46726 7590 05/04/2009  
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EXAMINER
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BAUER, CASSEY D

ART UNIT	PAPER NUMBER
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3744

MAIL DATE	DELIVERY MODE
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05/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/593,844		BAUER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Cassey Bauer		3744	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/21/2006</u> .                                               | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. **Claim 16** is objected to because of the following informalities: It appears that the phrase “cooled independently by..” in line 4 should read, “cooled independently from...”. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 17** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to claim 17, the claimed limitation of the 0° is unclear because it cannot be determined if Applicant is referring to Celsius or Fahrenheit. For examining purposes, the examiner is going to assume applicant intended the claim limitation to read, “0°F”

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 16, 17, 22, 24, 25, 27-29 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 383 222 A2 to Alsa et al., hereinafter referred to as Alsa.

In reference to claim 16, Alsa teaches the claimed invention including:

A refrigerating appliance, see figure 1, comprising:  
at least two storage compartments (9, 10, 11);  
an evaporator (8), which can be cooled independently --from-- an evaporator (6) of at least one other storage compartment, being associated with each storage compartment; and  
means for switching the mode of operation of at least one of the compartments (10) between a freezing mode and a non-freezing mode (4, 14, 15) see also column 3 lines 27-31.

Alsa fails to teach the individual storage compartments (9, 10, 11) thermally insulated from each other and from the surrounding area however, the examiner takes official notice that insulating separate storage compartments of a refrigerator appliance, particularly for storage compartments maintained at different temperatures is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to include thermal insulation to the refrigerating appliance of Alsa in order to prevent heat exchange between the individual storage compartments maintained at varying temperatures and to prevent heat contamination from the outer environment.

In reference to claim 17, Alsa teaches the claimed invention including:

wherein the means for switching the mode of operation also allow switching to a 0° mode, see column 3 lines 21-26 where -18°C is approximately equal to 0°F.

In reference to claim 22, Alsa discloses the claimed invention:

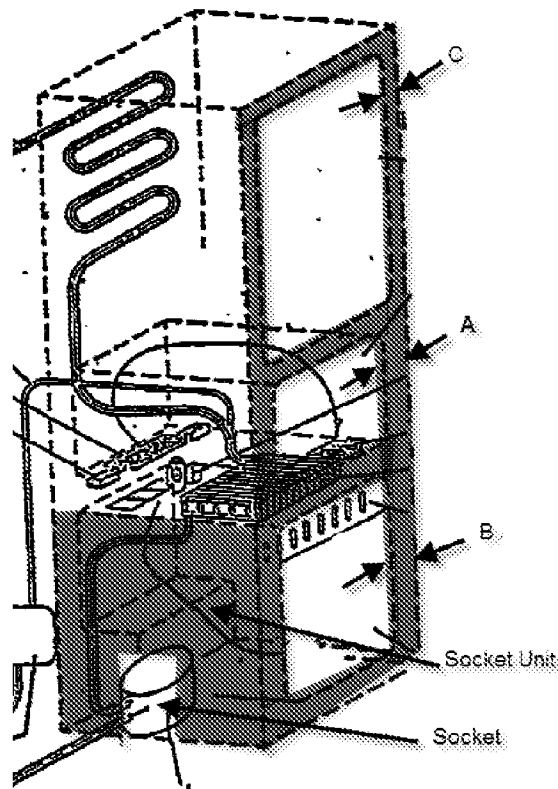
wherein at least one of the compartments has a no-frost evaporator, see column 5 lines 13-26.

In reference to claim 24, Alsa discloses the claimed invention:

wherein the no- frost evaporator (8) includes a plate-type design evaporator, see figure 1.

In reference to claim 25, Alsa discloses the claimed invention:

wherein the first and second compartments have insulation of substantially the same thickness. Alsa as modified in claim 16 above has insulation filling the entirety walls. As illustrated in Reference 1 below, storage compartments (10) and (11) have outer walls of substantially the same thickness (A and B). Therefore, the apparatus of Alsa as modified in claim 16 above will have insulation of substantially the same thickness in compartments 10 and 11.



Reference 1

In reference to claim 27, Alsa discloses the claimed invention:

wherein at least one of the compartments cannot be switched to a freezing mode (9) , and has a thinner insulation than the other of the compartments (10) which can be switched to the freezing mode. Alsa as modified in claim 16 above has insulation filling the entirety walls. As illustrated in Reference 1 above, storage compartment (9) has thinner walls than compartment (10) thickness (A and C). Therefore, the apparatus of Alsa as modified in claim 16 above will have thinner insulation in the compartment which cannot be switched to a freezing

mode (9) will be thinner than the insulation of the compartment which can be switched to a freezing mode (10).

In reference to claim 28, Alsa discloses the claimed invention:

wherein a compressor (1) is installed in a recess made in one of the compartments (11) see figure 1.

In reference to claim 29, Alsa discloses the claimed invention:

wherein a compressor (1) is installed in a socket unit, see Reference 1 below for definition of socket unit.

In reference to claim 31, Alsa discloses the claimed invention:

wherein the means for switching the mode of operation of at least one of the compartments (10) between a freezing mode and a non-freezing mode includes a regulator (14) and a selector switch (15).

**Claims 18-21, 26 and 32 are** rejected under 35 U.S.C. 103(a) as being unpatentable over Alsa in view of US 5,377,498 to Cur et al., hereinafter referred to as Cur.

In reference to claim 18, Alsa and Cur disclose the claimed invention:

Alsa fails to teach wherein the means for switching the mode of operation are provided for at least two compartments.

Cur teaches a refrigerating apparatus with three thermally insulated compartments maintained at varying temperatures, see figures 1-9. Cur, column 2 lines 41-54, further teaches that all of these compartments are convertible and that any or all of the compartments can be used at any of the selectable temperatures (-18°C, 0°C, 5°C, see column 1 lines 44-68). Therefore, it would

Art Unit: 3744

have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the refrigerating apparatus of Alsa, to include means for switching the mode of operation for at least two of the compartments in order to provide flexibility to the consumer.

In reference to claim 19, Alsa and Cur fail to specifically teach:

wherein at least one of the compartments has a wire tube evaporator.

However, Alsa does teach using a wire tube condenser (3). Since wire tube type heat exchangers are well known in the art, of refrigeration, it would have been obvious to one having ordinary skill in the art to modify the evaporator (6) of Alsa and Cur with a wire tube type evaporator in order to provide structural support for the coiled tube and prevent deformation of the coil.

In reference to claim 20, Alsa and Cur fail to specifically teach:

wherein another of the compartments has a lateral wall evaporator.

However, Alsa does teach an evaporator (6) situated on a lateral wall, see figure 1. Since all claimed elements were known in the art, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the refrigerating apparatus of Alsa and Cur and place the evaporator (8) on a lateral wall of the refrigerating apparatus in order to mount the evaporator in a manner that would simplify the

Art Unit: 3744

tubing arrangement by placing both evaporators in a single two dimensional plane.

In reference to claim 21, Alsa and Cur fail to specifically teach:

wherein another of the compartments also has a wire tube evaporator.

However, Alsa does teach using a wire tube condenser (3). Since all claimed elements were known in the art, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the refrigerating apparatus of Alsa and Cur and replace the evaporator (8) with a wire tube evaporator in order to cool the inside of compartment (10) in a simple effective manner.

In reference to claim 26, Alsa and Cur disclose the claimed invention:

Alsa teaches wherein the first (10) and second compartments (11) have different volumes but fail to teach wherein the first and second compartments can be operated in the same plurality of operating modes.

Cur teaches a refrigerating apparatus with three thermally insulated compartments maintained at varying temperatures, see figures 1-9. Cur, column 2 lines 41-54, further teaches that all of these compartments are convertible and that any or all of the compartments can be used at any of the selectable temperatures (-18°C, 0°C, 5°C, see column 1 lines 44-68). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention

was made, to modify the refrigerating apparatus of Alsa, to include the ability for the first and second compartments to be operated in the same plurality of operating modes, in order to provide maximum flexibility to the consumer.

In reference to claim 32, Alsa and Cur disclose the claimed invention:

further comprising a second regulator and a second selector switch, wherein each of the compartments is associated with one of the regulators and selector switches to control the mode of operation within the compartment.

Cur teaches a refrigerating apparatus with three thermally insulated compartments maintained at varying temperatures, see figures 1-9. Cur, column 2 lines 41-54, further teaches that all of these compartments are convertible and that any or all of the compartments can be used at any of the selectable temperatures (-18°C, 0°C, 5°C, see column 1 lines 44-68). Cur figure 7 further teaches using a regulator (59, 57, 55, capillary tubes) associated with each compartment (26, 30, and 34) and a selector switch (72, 70, 68) associated with each regulator and each compartment for switching between cooling modes. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the refrigerating apparatus of Alsa, to include means for switching the mode of operation for at least two of the compartments and provide a regulator and selector switch for each compartment switchable between operating modes in order to provide maximum flexibility to the consumer.

Art Unit: 3744

**Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over Alsa in view of US 3,018,637 to Mann et al., hereinafter referred to as Mann.

In reference to claim 23, Alsa and Mann disclose the claimed invention:

Alsa fails to specifically disclose wherein at least one of the compartments has includes a laminar evaporator.

Man teaches a no-frost, laminar (roll bonded) evaporator for use in a refrigerating apparatus, see figures 1-3, column 1 lines 23-28 and column 4 lines 8-13. Since both evaporators taught in the prior art are useful for the same purpose, that is refrigeration of a stored product, and one of ordinary skill in the art could have combined the components in order to form a third composition used for the very same purpose, and it has been held that combining the prior art components flows logically from their having been individually taught in the prior art, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the evaporator (8) of Alsa with the no-frost laminar evaporator of Mann in order to effectively cool the products stored in the compartment (10).

**Claim 30** is rejected under 35 U.S.C. 103(a) as being unpatentable over Alsa in view of US 2002/0002839 A1 to Sessa et al., hereinafter referred to as Sessa.

In reference to claim 30, Alsa and Sessa disclose the claimed invention:

Alsa teaches wherein at least two compartments (9 and 10) are formed in a body which can be connected to the socket unit (see Reference 1 above) in a first orientation.

But fails to teach the two compartments connected to the socket unit in a second orientation rotated 180° about a horizontal axis relative to the first orientation.

Sessa teaches wherein at least two compartments (P adjacent 3, and C) are formed in a body (3, door) which can be connected to a socket unit (1) in at least one of a first orientation, see figure 1, and a second orientation rotated 180° about a horizontal axis relative to the first orientation, see figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the refrigerating apparatus of Alsa to include the reversible door of Sessa in order to provide a refrigerator which is able to assume two different configurations by using substantially the same basic components and provide maximum flexibility to the consumer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassey Bauer whose telephone number is (571)270-7113. The examiner can normally be reached on Monday -Friday: 7-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler & Frantz Jules can be reached on (571)272-4834 & (571)272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cassey Bauer/  
Examiner, Art Unit 3744

/Frantz F. Jules/  
Supervisory Patent Examiner, Art Unit 3744